

Revised 05/01 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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WESTERN DISTRICT OF NEW YORK

FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

05 CV 0366

Jury Trial Demanded

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: **NOTE:** If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Joshua Ray Williams 2005-01035

2. _____

-VS-

B. Full Name(s) of Defendant(s) **NOTE:** Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Officer David Strong
2. Officer Glenn Graderman
3. Officer Terry Lockner
4. Chief Administrator Daniel Mandell
5. Nurse Anne
6. Officer Ron Urrin
7. Officer Sweeney
8. Officer Snyder

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION **NOTE:** To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Joshua R Williams

Present Place of Confinement & Address: Chemung County Jail
211 William St
Elmira, NY 14901

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: John P. H. H. David Strong

(If applicable) Official Position of Defendant: Peace Officer/corrections officer

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: 211 William St
Elmira, NY 14901

Name of Defendant: Terry Lockner II

(If applicable) Official Position of Defendant: Leatinent of Chemung County Jail

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: 211 William St
Elmira, NY 14901

Name of Defendant: Chief Administrator Daniel Mandell

(If applicable) Official Position of Defendant: Chief Administrator / Superintendent

(If applicable) Defendant is Sued in Individual and/or Official Capacity of Chemung County Jail

Address of Defendant: 211 William St
Elmira, NY 14901

continued

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

Defendant's Information

name of defendant: Anne ~~Smith~~

(if applicable) Official position of defendant: nurse

(if applicable) Defendant is sued in individual and/or official capacity

Address of defendant 211 William St
Elmira, NY 14901

name of defendant: Officer Snyder

(if applicable) Official Position of Defendant: ^{corrections officer} Peace Officer of Chemung

(if applicable) Defendant is sued in individual and/or ^{County Jail} official capacity

address of defendant 211 William St
Elmira, NY 14901

name of defendant Ron Kowalski

(if applicable) Official position: ^{Chemung County Jail} corrections officer/peace officer

(if applicable) Defendant is sued in individual and/or official capacity

address: 211 William St Elmira, NY 14901

name of defendant: Officer Sweeney

(if applicable) Official positions: Corrections/peace officer of Chemung
County Jail

(if applicable) Defendant is sued in individual and/or official capacity

address 211 William St

Elmira, NY 14901

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____
4. Name of Judge to whom case was assigned: _____
5. The approximate date the action was filed: _____
6. What was the disposition of the case?
Is it still pending? Yes _____ No _____
If not, give the approximate date it was resolved. _____
Disposition (check the statements which apply):
____ Dismissed (check the box which indicates why it was dismissed):
____ By court *sua sponte* as frivolous, malicious or for failing to state a claim
upon which relief can be granted;
____ By court for failure to exhaust administrative remedies;
____ By court for failure to prosecute, pay filing fee or otherwise respond to a court
order;
____ By court due to your voluntary withdrawal of claim;
____ Judgment upon motion or after trial entered for
____ plaintiff
____ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes _____ No

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

 Dismissed (check the box which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to exhaust administrative remedies;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

 Judgment upon motion or after trial entered for

- plaintiff
- defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

| | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) 12-13-04

defendant (give the name and position held of each defendant involved in this incident) Super-Intendent Mandell; Officers Strong, Unwin, Snyder, Sweeney, and Ganderman; Lt. Locker II, Nurse Anne

did the following to me (briefly state what each defendant named above did): Lt Locker, Officers Strong and Ganderman used excessive force, assaulted, and threatened me, plus filed frivolous criminal charges which I was found not guilty of by trial, while the other 3 officers watched. Super-Intendent Mandell failed to keep me safe from these actions in being that none of the officers were even reprimanded. When I asked medical - nurse Anne - to take pictures of my injuries, my request was denied. She also only put in her report that I received minor abrasions, when I had ~~more serious~~ [redacted]
The constitutional basis for this claim under 42 U.S.C. § 1983 is: Fist and ~~8th~~ Eighth Amendment, continued

and clauses of claims as stated on additional sheet following

The relief I am seeking for this claim is (briefly state the relief sought): [redacted] \$10,000 for each

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ✓ Yes No If yes, what was the result? never got an answer, was later told in court grievance was not received

Did you appeal that decision? Yes ✓ No If yes, what was the result? But I gave a statement at the Chemung County Sheriff's office, and won trial

Attach copies of any documents that indicate that you have exhausted this claim, due to false criminal charges filed against me concerning incident

to go get X-rays. I was also stripped of my clothing, left in my cell cold without anything including proper bedding such as a mattress, blanket, toilet paper, or clothes. This incident also caused severe mental anguish. 2 Fr. Malocaw charges of attempted assault in the 2nd were filed against me, resulting in trial by jury, which I was found not guilty on both.

My claims are as follows; Police Brutality, excessive force, Pain and suffering, cruel and unusual punishment, search and seizure, Failure to protect, Malicious prosecution, Denial of medical treatment, personal injury

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

\$10,000 for each claim = \$90,000

Do you want a jury trial? Yes ✓ No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5-13-05

(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Josina Ray Well

Signature(s) of Plaintiff(s)